

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

IN RE:

DAVID A. ONYSZKIEWICZ

MOTION TO VACATE PRIOR
DISMISSAL & REINSTATE CASE
Bk. No.: 11-13388 K

ALBERT J. MOGAVERO, being duly sworn, deposes and says that:

1. He is the Chapter 13 Trustee appointed to serve in the captioned case.
2. The case was set down for a hearing on a Motion to Dismiss, which motion came to be heard on September 20, 2013. At that time, the Trustee pressed the Motion to Dismiss and the Court granted it.
3. When the Trustee pressed the motion, he was not aware that payment in an amount of \$1000 posted to the case on September 17, 2013 (debtor also remitted payment in an amount of \$400 on September 23, 2013).
4. Upon this, the Trustee has no objection to reinstatement of the case.
5. An Order Dismissing **WAS NOT** served on the debtor or his attorney.
6. Notices to certain creditors **HAVE NOT** been sent by the Trustee.

WHEREFORE, the Trustee respectfully requests an ORDER VACATING the prior dismissal of debtor's Chapter 13 case and an ORDER REINSTATING the case. The Trustee additionally requests that the MOTION TO DISMISS be restored to the calendar and set down for hearing on October 18, 2013 at 10:00 a.m. or as soon thereafter as counsel can be heard at U.S. Bankruptcy Court, WDNY, Olympic Towers, 300 Pearl Street, Suite 350, Part II Courtroom, 3rd floor, Buffalo, New York.

Dated: September 24, 2013

/s/ Janet C. MacDonald

By Janet C. MacDonald Staff Attorney for
Albert J. Mogavero, Trustee
110 Pearl Street, 6th Floor
Buffalo, New York 14202
(716) 854 5636

**DAVID A. ONYSZKIEWICZ
55 SOUTH ROYCROFT BLVD.
BUFFALO, NEW YORK 14225**

**DIANE CIURCZAK, ESQ.
295 MAIN STREET, SUITE 1088
BUFFALO, NEW YORK 14203**